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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,633	11/12/2003	Pamela Lynn Teran	0803-0110	7987
26568	7590 12/21/200	4	EXAMINER	
COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD SUITE 2850 200 WEST ADAMS STREET			PADEN, CAROLYN A	
			ART UNIT	PAPER NUMBER
CHICAGO,	IL 60606		1761	
			DATE MAILED: 12/21/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)	
	10/706,633	TERAN ET AL.	
Office Action Summary	Examiner	Art Unit	_
	Carolyn A Paden	1761	
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address	
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).	
Status			
 Responsive to communication(s) filed on 23 Ju This action is FINAL. Since this application is in condition for allowar closed in accordance with the practice under E 	action is non-final. nce except for formal matters, pro		
Disposition of Claims			
4) ☐ Claim(s) 1-43 is/are pending in the application. 4a) Of the above claim(s) is/are withdraw 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-43 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or Application Papers 9) ☐ The specification is objected to by the Examine	vn from consideration. relection requirement. r. epted or b) objected to by the formula of the drawing(s) be held in abeyance. See ton is required if the drawing(s) is objected.	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the prior application from the International Bureau * See the attached detailed Office action for a list of the certified copies of the certified copies of the prior application from the International Bureau 	s have been received. s have been received in Applicati ity documents have been receive (PCT Rule 17.2(a)).	on No ed in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 6-23-04.	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:		

Application/Control Number: 10/706,633

Art Unit: 1761

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,19,29,35,41,45 & 48 are of U.S. Patent No. 6,793,959. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claims are fully included within the pan release agent of the prior application.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

Application/Control Number: 10/706,633 Page 3

Art Unit: 1761

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-13, 24-31 & 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (4,832,975).

Yang discloses tailored triglycerides with improved auto ignition characteristics. The composition contains an interesterified fat having a combination of medium-chain triglycerides and long-chained triglycerides in the relative amounts of those set forth in the claims (see example 1). Although the smoke point is not specifically outlined in the patent, one of ordinary skill in the art would expect it to fall within the range of the claims due to the improvement in Yang to interesterification of MCT with LCT. The fat in Yang is for frying and would be expected to also have "pan release" qualities. But preamble limitations do not alone constitute an unobvious distinction in product claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

Application/Control Number: 10/706,633 Page 4

Art Unit: 1761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398 or by dialing 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAROLYN PADEN 12-16-04 PRIMARY EXAMINER 1761